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AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES
DISTRICT COURT

for the
District of
Minnesota

UNITED STATES OF AMERICA

v.

Case No.

13-mj-52 AUB

ZACHARI ALLEN KOZAR

CRIMINAL COMPLAINT

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about December 26, 2012, in Crow Wing County, in the State and District of Minnesota, defendant ZACHARI ALLEN KOZAR knowingly and intentionally:

possessed with intent to distribute controlled substances; possessed a firearm as an armed career criminal; and used and carried a firearm during and in relation to a drug trafficking crime,

in violation of Title 21, United States Code Sections 841(a)(1) and 841(b)(1), as well as Title 18, United States Code Sections 922, 924(e), and 924(c).

I further state that I am a(n) Special Agent and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No


Complainant's signature

DAVID NYGREN, ATF Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: January 25, 2013

City and state: Minneapolis, MN


Judge's signature

The Honorable Arthur J. Boylan
Printed name and title



STATE OF MINNESOTA)
)
COUNTY OF HENNEPIN)

ss. AFFIDAVIT OF DAVID NYGREN

I, David Nygren, being duly sworn, depose and state as follows:

INTRODUCTION

1. Your Affiant is a Special Agent of the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) and has been so employed in this capacity since January 1991. I am presently assigned to ATF St. Paul I Field Office. I was initially assigned to the Atlanta Field Division until April 1999, when I was transferred to my present post, and I have participated in numerous investigations related to the distribution of controlled substances and firearms violations. As a Special Agent of the ATF, my duties and responsibilities include conducting criminal investigations of individuals and entities for possible violation of Federal laws, including those laws found in Title 18 and Title 21, United States Code.

PURPOSE OF AFFIDAVIT

2. This affidavit is submitted in support of a criminal complaint and warrant for the arrest of ZACHARI ALLEN KOZAR. KOZAR is presently in custody in the Crow Wing County Jail (CWCJ), pending state criminal charges stemming from criminal acts he perpetrated on December 26, 2012, as described below.

3. The facts and information contained in this affidavit are based upon my own investigation and observations and those of other agents and law enforcement officers involved in the investigation. All observations referenced below that were not made by me

were related to me by the persons who made such observations. This affidavit contains information necessary to support probable cause for the attached complaint and a warrant for arrest. It is not intended to include each and every fact and matter observed by me or known to the Government.

FACTS ESTABLISHING PROBABLE CAUSE

4. Law enforcement is currently involved in an investigation into narcotics trafficking by KOZAR and his associates. The Lakes Area Drug Investigative Division (LADID) began this investigation several months ago, and the investigation has included multiple search warrants, surveillance, and other investigative actions. Because of this ongoing investigation, law enforcement is familiar with KOZAR, where KOZAR resides, KOZAR's associates, and the vehicles used by KOZAR. Since approximately September 2012, KOZAR has been driving a blue Humvee, Minnesota license plate 135JEG (the "Humvee").

5. A National Crime Information Center (NCIC) check of KOZAR disclosed KOZAR has several convictions for narcotics-related offenses and other felony crimes, including but not limited to: theft of motor vehicle (January 1999), theft of motor vehicle (October 1999), fleeing police in a motor vehicle (October 1999), 3rd degree burglary (October 1999), damage to property (October 1999), felony escape from custody (April 2001), fleeing police in a motor vehicle (July 2004), 5th degree drug possession (July 2004), 5th degree drug possession (February 2008), 5th degree drug possession (February 2008), and

3rd degree drug possession (December 2009). KOZAR has an extensive number of arrests for additional offense conduct, including arrests for suspected narcotics sales.

6. On December 26th, 2012, law enforcement observed the above-described Humvee while its driver was conducting suspected drug trafficking activity, including but not limited to traveling to 8111 Greenwood Road in the City of Baxter, Minnesota. Based on information from prior investigation, the 8111 Greenwood address was known to be associated with the use and distribution of controlled substances, and individuals were known to frequently stop and use this residence to conduct illegal trafficking of controlled substances.

7. Shortly after leaving 8111 Greenwood Road, law enforcement observed the Humvee cross the center line of the eastbound lane of College Road near Brian Lane, in Brainerd, Minnesota. Law enforcement also observed that the Humvee driver was talking on a cellular phone. A separate police officer conducted a traffic stop on the Humvee. KOZAR was identified as the driver. KOZAR was the sole occupant of the vehicle.

8. At the beginning of the traffic stop, KOZAR told law enforcement that he was coming from a Wal-Mart store. KOZAR also appeared to be under the influence. Based on these and other facts learned during the stop, the police officer requested canine assistance. KOZAR became agitated, openly complained and protested when the canine officer arrived, and eventually left the scene of the traffic stop on foot as the canine began to alert to the odor of a controlled substance in the Humvee. Shortly thereafter, law enforcement observed a

clear plastic baggy located under the passenger seat near the center counsel of the Humvee. The clear baggy appeared to contain a crystal-like substance. A handgun was also observed under the front passenger seat near the center counsel. The suspected methamphetamine and firearm were photographed but left in place. The Humvee was towed to a secure location and sealed by law enforcement pending a search warrant.

9. Shortly thereafter, law enforcement located KOZAR nearby, in another vehicle with an associate. Law enforcement placed KOZAR under arrest. KOZAR had \$896.00 in U.S currency on his person when law enforcement arrested him. That currency included but was not limited to seven (7) \$100 dollar bills and three (3) \$50 dollar bills.

10. Based on these and additional facts, on December 27, 2012, Crow Wing County District Court Judge Ten Eyck issued a search warrant for KOZAR's vehicle, specifically the Humvee. Pursuant to that search warrant, members of the LADID discovered multiple items of evidentiary value within the Humvee, including but not limited to:

- a. One (1) .40 caliber Steyr Mannlicher semi-automatic pistol, Model M40, serial number 031674, containing a magazine loaded with multiple .40 caliber rounds. The loaded firearm was found immediately below the front aspect of the front passenger seat;
- b. One (1) nylon holster housing the above-described Steyr semi-automatic;
- c. One (1) additional magazine fitting the above-described Steyr semi-automatic. The additional magazine was found in a magazine holder attached to the nylon holster containing the Steyr semi-automatic;
- d. One (1) plastic baggy containing approximately 2.8 grams (with packaging) of field-tested cocaine base ("crack"). The baggy was found adjacent to the Steyr semi-automatic;

- e. Ten (10) plastic baggies containing various distribution amounts of field-tested methamphetamine and crack, totaling approximately 32.1 grams (with packaging). The ten (10) individual baggies were located in a round plastic container found further beneath the front passenger seat, behind the above-described Steyr semi-automatic; and
- f. Documents demonstrating KOZAR purchased the Humvee in September 2012 and promised to insure the Humvee.

11. In my training and experience, the items seized and described above, including but not limited to the volume and type of controlled substances and their packaging, the nature of U.S. currency found on KOZAR's person, as well as a loaded firearm and controlled substances found underneath the front passenger seat in a vehicle driven by a convicted felon, are consistent with violations of federal law, including but not limited to Title 21, United States Code Sections 841(a)(1) and 841(b)(1) (controlled substance distribution offenses), and Title 18, United States Code Sections 922 and 924 (unlawful weapon possession).


12. In my training and experience, I know that it is common for drug traffickers and distributors to possess firearms for protection and security. Moreover, based on my training and experience, those involved in illegal drug trafficking and weapons possession activities seek to evade the detection of law enforcement or otherwise thwart investigations. Because of these circumstances, as well as additional potential criminal sanctions, it is also common for convicted felons and/or drug distributors to disavow, conceal, or otherwise

obfuscate their illegal firearms possession – such as by, for example, hiding a firearm under a car seat.

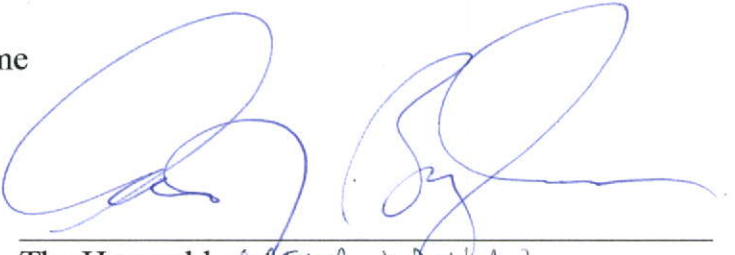
13. The .40 caliber Steyr Mannlicher semi-automatic pistol described above was manufactured in Austria. The Steyr firearm necessarily traveled in interstate and foreign commerce to be found inside a vehicle within this State and District on December 26, 2012.

14. Based on the above information, I believe that there is probable cause to conclude that on or about December 26, 2012, Zachari Allen KOZAR knowingly and intentionally committed violations of federal law, including but not limited to possession with intent to distribute controlled substances, in violation of Title 21, United States Code Sections 841(a)(1) and 841(b)(1); possession of a firearm by an armed career criminal, in violation of Title 18, United States Code Sections 922 and 924(e); as well as using and carrying a firearm during and in relation to a drug trafficking crime, in violation of Title 18, United States Code Section 924(c).

Further, your Affiant sayeth not.


Special Agent David Nygren
Bureau of Alcohol, Tobacco, Firearms & Explosives

Sworn and subscribed to before me
this 25 day of January, 2013


The Honorable ARTHUR J. BOHAN
UNITED STATES MAGISTRATE JUDGE